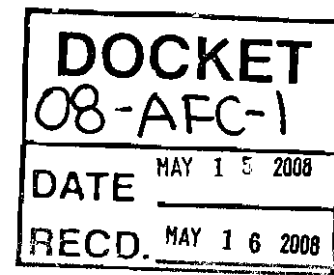




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May 15, 2008

Mr. Christopher Meyer  
Project Manager  
California Energy Commission  
1516 Ninth Street MS-15  
Sacramento, CA 95814

Re: Response to Department of Conservation's (DOC's) April 4, 2008 Letter  
Regarding the Avenal Energy Application for Certification (08-AFC-1)

Dear Mr. Meyer:

Thank you for forwarding a copy of the letter you received from the Department of Conservation (DOC) concerning potential Prime Farmland on the Avenal Energy Project Site. On behalf of Avenal Power Center, LLC, we provide the following response.

Avenal Power Center, LLC believes the letter from the DOC contains a number of inconsistencies with the information provided in the Avenal Energy AFC. A key concern is the letter's statement that "[t]he AFC notes that the project site is designated as Prime Farmland." While the Project's effects on agriculture and farmland, including Prime Farmlands, were fully analyzed in the AFC (see Figure 6.4-4A of the AFC), the AFC correctly notes that the agricultural designation of the land was changed to an industrial designation in 1992, over 15 years ago. The DOC's latest farmland map for the area (2005) indicates that the DOC continues to use the antiquated designation of the Project Site despite the City's re-designation and rezoning of the area in 1992. A note at the bottom of Figure 6.4-4A comments on this issue, stating that "[t]he industrial zoned area within the City of Avenal is not designated as Prime Farmland in this map due to the Industrial zoning." Throughout AFC Section 6.4 (Agriculture and Soils), the Site lands are described as being "designated and zoned as industrial" and the AFC does not reference the Site as Prime Farmland.

The City's adoption of the 1992 General Plan was concomitant with a full environmental review, pursuant to the California Environmental Quality Act (CEQA), of the changes the City made to the plan, including the withdrawal of the current Project Site from agricultural use and its re-designation as an industrial area. The General Plan CEQA review and adoption process was the opportunity for interested agencies, including the DOC, to comment on the re-designation and request any mitigation measures thought appropriate. As such, the DOC's current request for additional mitigation measures would have been more appropriately addressed at the time the General Plan was adopted, and not with this Project. The AFC makes reference to the appropriate timing of environmental review at the bottom of page 6.4-7 (continuing onto page 6.4-8) stating that "...the impact of zoning Prime Farmland with industrial use [on Project Site lands] was already evaluated by the City of Avenal when it adopted its General Plan in 1992,

Mr. Christopher Meyer  
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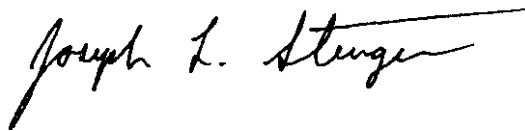
eliminating the need to analyze the impacts of building on Prime Farmland...”.

Regarding the remainder of the DOC’s comments, AFC Section 6.4 provides a description of the agricultural land uses in the vicinity and is comprehensive for the purposes of assessing Project impacts to agricultural resources. Prime Farmland, Unique Farmland and Williamson Act contract lands potentially affected by the Project are described in Section 6.4.1.2, and impacts to each of these designated lands are fully assessed in Section 6.4.2. Williamson Act lands in the vicinity of Project activities are shown in AFC Figures 6.4-4A and 6.4-4B. Project activity involving Williamson Act lands is restricted to linear rights-of-way that will not impair the agricultural production on the land or substantially impair the Williamson Act contract and thus, will not result in Williamson Act contracts being cancelled or non-renewed.

Overall, we respectfully assert that the AFC provides sufficient information for Commission staff to fully assess the Project’s potential impacts to agricultural resources.

If you have questions regarding this letter, please call Jim Rexroad at (713) 275-6147, or myself at the telephone number in the letterhead.

Sincerely,

A handwritten signature in black ink, reading "Joseph L. Stenger". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Joseph L. Stenger, PG, REA  
Project Director

cc: Jim Rexroad, Avenal Power Center, LLC  
Tracey Gilliland, Avenal Power Center, LLC  
Jane Luckhardt, Downey Brand

